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11/11

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,978	10/20/2004	Yoshiyuki Kato	04734/LH	8929
1933	7590	04/02/2007	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			MEYERS, JAMES A	
220 Fifth Avenue			ART UNIT	
16TH Floor			PAPER NUMBER	
NEW YORK, NY 10001-7708			2609	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/02/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/511,978	KATO, YOSHIYUKI
	Examiner James A. Meyers	Art Unit 2609

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 October 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>See Continuation Sheet</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :10/20/2004, 11/10/2005, 4/28/2006, 11/1/2006.

### **DETAILED ACTION**

This action is in reply to the initial filing and preliminary amendment of October 20, 2004. Claims 1-19 are pending and have been considered below.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed November 11, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Applicant has included a copy of CN 1214519A instead of the listed CN 1214591A.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: SA9 in Figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet"

or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities: the examiner notes the use of numerous abbreviations throughout the specification without *first* including a description in plain text, as required.

The examiner also notes numerous grammatical errors throughout the specification and requests Applicant's assistance in correcting them.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 and 13-19 rejected under 35 U.S.C. 102(b) as being anticipated by Hiramatsu (US 2001/0022861).

**Examiners Note:** The Applicant appears to be attempting to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph in Claim 19 by using "means-plus-function" language. However, the

Examiner notes that the only "means" for performing these cited functions in the specification appears to be computer program modules. While the claims pass the first two tests of the three-prong test used to determine invocation of paragraph 6, since no other specific structural limitations are disclosed in the specification, the claims do not meet the last test of the three-prong test. Therefore, 35 U.S.C. 112 6<sup>th</sup> paragraph has not been invoked when considering these claims below.

**Claims 1, 16 and 19:** Hiramatsu discloses a system, method and computer program comprising:

- (a) an image pickup device which acquires an object image and outputs an image signal (page 1, paragraph 8);
- (b) a recording unit which records the image signal output from the image device (page 4, paragraph 100);
- (c) a first detector which detects a transmitting position of an optical signal in the image based on the image signal output from the image pickup device (page 1, paragraph 9); and
- (d) a controller which executes a control operation in response to the transmitting position detected by the first detector (page 5, paragraph 109).

**Claims 2 and 17:** Hiramatsu discloses a system and method as in Claims 1 and 17 above, and further discloses:

(a) a specifying unit which specifies an arbitrary area of the object image based on changes in the transmitting position (page 1, paragraphs 11 and 12),  
(b) wherein the controller executes a control operation with respect to the area specified by the specifying unit (page 5, paragraphs 109 and 110).

**Claims 3 and 18:** Hiramatsu discloses a system and method as in Claims 1 and 17 above, and further discloses:

(a) a recognition unit which recognizes a moving pattern of a transmitting source of the optical signal based on the changes in the transmitting position detected by the first detector (page 5, paragraph 113),  
(b) wherein the controller executes a control operation based on the moving pattern recognized by the recognition unit (page 5, paragraph 114).

**Claims 4-6:** Hiramatsu discloses a system as in Claims 1-3 above, and further discloses that the controller executes an operation for setting a focus detection range (page 5, paragraph 108).

**Claims 7-9:** Hiramatsu discloses a system as in Claims 1-3 above, and further discloses that the controller executes an operation for setting an exposure detection range (page 2, paragraphs 58 and 59).

**Claim 13:** Hiramatsu discloses a system as in Claim 1 above, and further discloses:

- (a) a second detector which detects specific code data transmitted by means of the optical signal based on the image signal output from the image pickup device (page 4, paragraphs 103 and 104), and
- (b) wherein the controller executes the control operation based on the specific code data detected by the second detector (page 4, paragraphs 103 and 104).

**Claims 14 and 15:** Hiramatsu discloses a system as in Claims 1 and 2 above, and further discloses:

- (a) a second detector which discriminates one of plural specific code data transmitted by means of the optical signal based on the image signal output from the image pickup device (page 4, paragraphs 103 and 104), and
- (b) wherein the controller executes the control operation based on the specific code data discriminated by the second detector (page 4, paragraphs 103 and 104).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiramatsu (US 2001/0022861) in view of Mitsushige et al. (JP 11-168749).

**Claims 10-12:** Hiramatsu discloses a system as in Claims 1-3 above, but does not disclose that the controller executes an operation for setting a color evaluation range. However, Mitsushige discloses a controlling unit on the CPU of a camera that sets a color evaluation range (abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to program the controller of Hiramatsu to set the color evaluation range as disclosed in Mitsushige. One would have been motivated to do so to allow for a wider variety of setting in which a picture can be taken.

### ***Conclusion***

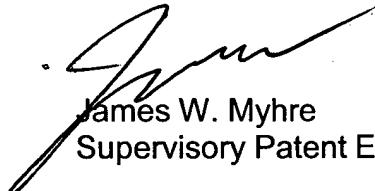
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Meyers whose telephone number is 571-270-1690. The examiner can normally be reached on Mon-Fri (Alternate Fridays Off), 7:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/22/2007  
JM

  
James W. Myhre  
Supervisory Patent Examiner